IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

RCRev..No. 70 of 2007

RCA.33/2006 of DISTRICT COURT, THRISSUR
(IA 2181 2004) RCP.8/2004 of ADDL.M.C.,IRINJALAKUDA

.....

PETITIONER:

SUNDARAM ACHARI,
S/O.NARAYANAN ACHARI,
PANDATHUPARAMBIL HOUSE,
KANJIRATHODE LANE,
IRINJALAKKUDA TOWN,
MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.N.SUBRAMANIAM
SRI.M.S.NARAYANAN

RESPONDENT:

PERINGOTTUKARA NAMBOODIRI YOGAKSHEMA SABHA, ANTHIKKAD, REP. BY ITS SECRETARY,
PERINGOTTUKARA NAMBOODIRI YOGAKSHEMA SABHA, HEAD OFFICE, ANTHIKKAD, THRISSUR DIST.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

R.C.R.No. 70 of 2007

ORDER

Balakrishnan Nair, J.

This revision is filed challenging the judgment of the Rent Control Appellate Authority in R.C.A.No.33/06, affirming the order of the Rent Controller on I.A.No. 2181/04 in R.C.P.No.8/04. The respondent herein filed an application for eviction of the tenanted premises under Sections 11 (3), 11(4)(v) and 11(8) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The tenant, instead of filing the counter statement, filed a preliminary objection contending that the landlord has not produced anything to show that there is landlord-tenant relationship between the parties. So, the landlord filed I.A.No.2181/04 seeking leave to deliver interrogatories, touching upon certain points, which will throw light on the landlord of the tenanted premises. The petitioner has given those interrogatories in paragraph 4 of the

revision, which we quote for convenience, as under:

> "(i) From whom has the respondent taken the room bearing No.V/48 on lease?
>
> (ii) Does the respondent have any right over the said room as a tenant? If so, what is the right?
>
> (iii) If there is any such right, are there any document to show such right and which are those documents?
>
> (iv) In which year has the respondent applied independently to take separate electric connection in his name?
>
> (v) Was the consent of the landlord produced to take independent electric connection?
>
> (vi) Is there any license issued by the Municipality for conducting business in Room No.V/48. If so, what is its number and its year?"

The Rent Controller granted leave to serve interrogatories on the tenant. On appeal, the appellate authority held that the appeal is not maintainable against the said order under Section

18 of the Act. It was also held that the Rent Control Court has jurisdiction to pass an order of this nature, under Section 23 of the Act. This revision is filed challenging the said appellate order.

2. The learned counsel would submit that the court has, of course, jurisdiction to grant leave to serve interrogatories, in view of the provisions of Section 23 of the Act. But, the questions raised in the interrogatories are, having the nature of a rowing enquiry, to fish out materials to support the claim of the landlord. The same is impermissible, it is submitted. In support of his contentions, the learned counsel for the petitioner relied on the decisions in **G.Nanchil Kumaran v. Govindasamy Reddiar** (1999 (3) Madras LJ 660), in **Janaki Ballav Patnaik v. Bennett Coleman & Co. Ltd.** (AIR 1989 Orissa 216) and in **M/S.AFL Developers Pvt. Ltd. v. Smt.Veena Trivedi** (AIR 2000 Delhi 354).

3. Going by the dispute raised by the petitioner, we feel that the interrogatories are fully relevant to the issue to be decided in this case. We also notice that the petitioner has not filed any counter statement in the Rent Control Petition.Further, this being not an order affecting the rights of the petitioner, it is not appealable under Section 18 of the Act. The decisions cited by the petitioner are distinguishable on facts. The principles laid down therein cannot have any application to the facts of this case. We fully agree with the reasons and conclusions of the appellate authority.

In the result, the revision fails and it is dismissed with costs.

(K.Balakrishnan Nair, Judge)

21st November, 2007

(K.P.Balachandran, Judge)

tkv